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REFERENCE TITLE: **unfair claim processing practices; penalties**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HB 2437

Introduced by
Representatives Hanson, Nelson: McCune Davis, Reagan

AN ACT

AMENDING SECTION 23-930, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-930, Arizona Revised Statutes, is amended to
3 read:

4 23-930. Unfair claim processing practices; bad faith; civil
5 penalties

6 A. The commission has exclusive jurisdiction as prescribed in this
7 section over complaints involving alleged unfair claim processing practices
8 or bad faith by an employer, self-insured employer, insurance carrier or
9 claims processing representative relating to any aspect of this chapter. The
10 commission shall investigate allegations of unfair claim processing or bad
11 faith either on receiving a complaint or on its own motion.

12 B. If the commission finds that unfair claim processing or bad faith
13 has occurred in the handling of a particular claim, it shall award the
14 claimant, in addition to any benefits it finds are due and owing, a benefit
15 penalty of twenty-five per cent of the benefit amount ordered to be paid or
16 five hundred dollars, whichever is more.

17 C. If the commission finds that an employer, self-insured employer,
18 insurance carrier or claim processing representative has a history or pattern
19 of repeated unfair claim processing practices or bad faith, it may impose a
20 civil penalty of up to one thousand dollars for each violation found. **FOR**
21 **REIMBURSEMENT PURPOSES, THE COMMISSION SHALL SUBTRACT FROM THE IMPOSED CIVIL**
22 **PENALTY THE FEES, EXPENSES AND COSTS INCURRED BY THE COMMISSION FOR**
23 **INVESTIGATING OR PURSUING THE ALLEGATION UNDER THIS SECTION AND THIS AMOUNT**
24 **SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE**
25 **ADMINISTRATIVE FUND OF THE COMMISSION. THE REMAINING AMOUNT OF the civil**
26 **penalty shall be deposited, pursuant to sections 35-146 and 35-147, in the**
27 **state general fund.**

28 D. Any party aggrieved by an order of the commission under this
29 section may request a hearing pursuant to section 23-947. The hearing and
30 decision shall be conducted pursuant to the provisions of section 23-941.

31 E. The commission shall adopt by rule a definition of unfair claim
32 processing practices and bad faith. In adopting a rule under this
33 subsection, the commission shall consider, among other factors, recognized
34 and approved claim processing practices within the insurance industry, the
35 commission's own experience in processing workers' compensation claims and
36 the workers' compensation and insurance laws of this state.

37 F. This section shall not be construed as limiting or interfering with
38 the authority of the department of insurance as provided by law to regulate
39 any insurance carriers, including the jurisdiction of the department of
40 insurance over unfair claim settlement practices as provided in section
41 20-461.